

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Neutral Citation No. 2024:PHHC:043599-DB

(104)

LPA-917-2022 (O&M)

Decided on : 02.04.2024

Jai Singh (Deceased) through his L.Rs. and others

.....Appellant(s)

Versus

State of Haryana and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present:- Mr. Salil Dev Singh Bali, Advocate for the appellants.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-2197-LPA-2022

Application for condonation of delay of 39 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit. Delay of 39 days in filing the appeal is condoned.

CM stands disposed of.

LPA-917-2022 (O&M)

Consideration in the present letters patent appeal is sought of the judgment dated 06.09.2022 of the learned Single Judge passed in **CWP-7451-2001 ‘Jai Singh (deceased) through L.Rs. Vs. State of Haryana and others’**, wherein challenge was raised to the order dated 30.03.1999 (Annexure P-7) passed by the Director Local Bodies, Haryana, whereby the deceased employee was awarded the punishment of reduction in rank from Fire Station Officer to Sub Fire Officer. Vide the said order the Learned Single Judge has upheld order dated 30.03.1999 (Annexure P-7) and also did not interfere in the appellate order dated 17.02.2000

(Annexure P-9), wherein the Financial Commissioner & Secretary to Government of Haryana, Local Bodies Department had declined to interfere in the order passed and it was noticed that it was a serious issue and show cause notice had been issued for removal of service, but in the final order lenient view had been taken for reduction in rank.

2. The Learned Single Judge noticed that the allegations on the basis of which the punishment had been imposed were on account of the charge-sheet dated 12.10.1999 under Rule 7 of the Haryana Civil Services (Punishment & Appeals) Rules, 1987. The incident pertained to a fire incident which had taken place on 24.05.1995 in the premises of M/s Krishna Fireworks, Rohtak, wherein as many as 25 people died, which had led to the charge-sheet being served upon the appellant. It was noticed that a inquiry had been conducted and on the basis of the allegations having been proved, the said punishment order had been passed. The Government employee having expired during the pendency of the writ petition and the petition being pursued by the legal representatives was kept in mind, to come to the conclusion that the jurisdiction of the Court to interfere with the punishment awarded by the authorities was limited. In the absence of any procedure being violated during the departmental proceedings and due opportunity having been granted to the employee, it is not for the Court to interfere. The Learned Single Judge also noticed that it could not be pointed out that the procedure followed was wrong in any manner and the charge-sheet was duly served and after giving due opportunity of defending himself to the employee, the punishment order had been passed and there was no proper care to storage of fireworks.

3. Counsel for the appellants has vehemently submitted that the permission as such regarding the setting up of the cracker unit had been approved by the Deputy Commissioner at an earlier point of time and therefore, an objection had been raised when the charge-sheet had been issued, since the said officer was the Director, Local Bodies. In such circumstances, the employee had objected as such when the departmental action had been initiated against him.

4. We have perused the paper-book and find that vide communication dated 25.06.1998 (Annexure P-5) the said objection had been raised. A perusal of the paper-book further goes on to show that the inquiry proceedings had already been conducted on 04.03.1998 (Annexure P-3) by an Executive Engineer, who had been appointed on 22.04.1997 in pursuance of the charge-sheet dated 12.10.1995 against the deceased employee. The sum and substance of the charges framed on the departmental side were as under:-

“1. That regarding in the explosion accrued (sic. occurred) on 24.5.95 at M/S Krishna Fire Works Rohtak in which 25 persons were killed. The report of the same should have been given on telephone in terms of the directions issued vide memo No. FACT-93/7407-750 dated 11.2.93 but you have not done so.

2. That while issuing no objection certificate regarding fire safety to M/S Krishna Fire Works Rohtak you have committed major lapses because as per report of the enquiry officer you have told that a brigade was not able to enter into the premises of the fire the said fireworks. Similarly the presence of fire fighting equipment and extinguisher has not been assured in the said fire works.

3. That you do not have full control on the staff. For instance on 24.5.95 at the site of fire explosion the entire staff was without dress.

The above said irregularities committed by Shri Jai Singh Fire Station Officer are serious for which he has liable for disciplinary action.”

5. In pursuance of the said proceedings, the Inquiry Officer came to the conclusion that the information was never sent immediately to the Directorate regarding the fire incident and the Headquarter should have immediately been informed for assessing the gravity of the incident and to make necessary arrangements and to keep the State Government informed. The explanation as such to evade from his duty by stating that it was the responsibility of the fireman on duty to inform the Directorate was not accepted. Accordingly, charge No.1 was held to be proved on the ground that it was responsibility of the employee to inform the Directorate and he should have issued necessary instructions to the fireman on duty or should have requested the E.O, M.C., Rohtak to inform Directorate as per the concerned instructions. Similarly, the factum of NOC being issued and the fire equipments which were necessary to be installed in the factory were taken into consideration under 2nd charge. It was noticed that the factory was adjacent to a populated area along a very busy road and within municipal limits and safety aspects had to be kept in mind and the report as such should have pointed out the said aspects after inspecting the site. The site plan attested by him did not appear to be according to scale and as per situation at site. It was noticed that there were inadequate provisions of means of fire fighting and old rusty fire extinguishers had been provided for the godowns and no fire fighting provision for the explosives stored in the open had been made and there was enough water for the buckets to control such a situation. Thus, the factory had posed serious threat to the life of workers and the residents and passerby of the adjacent

areas of the factory and the 2nd charge was held to be proved. Similarly, the third charge also partly proved against the employee that he did not have control over the fire staff, as the staff was not wearing uniforms at the time of fire incident.

6. Therefore, on all accounts the charges had been proved, which eventually led to the order and, accordingly, led to the show cause notice being issued, which was then objected on the ground that the Director, Local Bodies as such was the same officer, who was also the Deputy Commissioner. Apparently, when the order was passed, a separate Director had considered the issue and kept in mind the inquiry report. It was also noticed that the said Director had been transferred on 30.10.1998 and in such circumstances as noticed earlier also, though initially the notice as such was for termination of services, the punishment of reduction to lower post was done from the Fire Station Officer to Sub Fire Officer.

7. In appeal also the aspect as discussed above was duly considered. It was also noticed that cross-examination of departmental witnesses had been done and the Inquiry Officer had been appointed and at that time no such objection had been raised and nothing could be proved that the Inquiry Officer was impartial in any manner. In such circumstances, the order was upheld by noticing that lenient view had already been taken.

8. A perusal of the inquiry report would go on to show that a large number of Government officials were examined including the Fire Station Officers of Bahadurgarh and Sonipat, since they had also been asked to come from adjoining stations to extinguish the fire at fireworks factory.

9. The power of judicial review is limited as has been laid down by the Apex Court in the case of **B.C. Chaturvedi Vs. Union of India and others, (1995) SCC (6) 749** wherein the Apex Court has held that the interference by the Writ Court is permissible when the punishment is found shockingly disproportionate and if the procedure followed is correct, it is not for the Court to substitute the punishment order. Relevant portion of the judgment reads as under:

"18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases. Impose appropriate punishment with cogent reasons in support thereof."

10. The employee having been given adequate opportunity before imposing the punishment, now cannot turn around and try to fix the blame as such on the ground that the Deputy Commissioner had approved the preliminary inquiry report and subsequently charge-sheet was issued by the same officer. The punishment is based on the inquiry conducted by the Executive Engineer and then Director Local Bodies had applied her mind by imposing the punishment as noticed above, who was an independent officer not connected with the grant of the NOC. In such circumstances,

the argument which has been raised by counsel for the appellant is not liable to be taken into consideration.

11. Resultantly, there is no merit in the present letters patent appeal and the same is hereby dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

02.04.2024
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No